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TRA DOCKET ROOM

October 26, 2004

Chairman Pat Miller
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

04-00380

Re: Sprint's Complaint and Request to Suspend Tariff and to Conduct a Contested Case Proceeding
Tariff No. 20041259

Dear Chairman Miller:

Please find enclosed an original and thirteen (13) copies of Sprint Communications Company, L.P.'s and Sprint Spectrum, L.P.'s Complaint and Request to Suspend Tariff and to Conduct a Contested Case Proceeding in the above-referenced Tariff. Also enclosed is a check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions concerning this request.

Sincerely yours,

Edward Phillips

HEP:sm

Enclosures


cc. BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Complaint and Request to Suspend Tariff and to Conduct a Contested Case Proceeding of Sprint Communications Company, L.P. and Sprint Spectrum, L.P. upon counsel for BellSouth Telecommunications, Inc. by depositing a copy in the United States Mail, first-class postage prepaid.

This 27th day of October, 2004.

Joelle J. Phillips
BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300



Edward Phillips
Sprint Communications Company, L.P.
Sprint Spectrum, L.P.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In Re:

BellSouth Telecommunications, Inc. Tariff to
Introduce Transit Traffic Service,
Tariff No. 20041259

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Docket No. _____

COMPLAINT AND REQUEST TO SUSPEND TARIFF AND TO CONDUCT A
CONTESTED CASE PROCEEDING

Sprint Communications Company, L.P. and Sprint Spectrum, L.P. (“Sprint” or “Complainant”) through undersigned counsel files this complaint against BellSouth Telecommunications, Inc.’s Tariff No. 20041259 before the Tennessee Regulatory Authority (“Authority”) requesting specifically that the Authority suspended Bellsouth’s Tariff No. 20041259 and convene a contested case proceeding. This complaint, request to suspend Tariff No. 20041259 and request to convene a contested case are brought pursuant to Tenn. Code Ann. § 65-5-201(c). In support of its complaint, Sprint states as follows:

1. Sprint is both a competitive telecommunications and wireless service provider in the State of Tennessee and provides comprehensive telecommunications services to customers within the state.

2. Based upon information and belief, Tariff No. 20041259 was filed by BellSouth on or about October 15, 2004 with a proposed effective date of November 5, 2004. As the Complainant understands BellSouth’s tariff, if any party is unable to agree to a negotiated rate with BellSouth, the tariff has the potential to increase rates paid by competitive and wireless carriers for the transit of traffic over BellSouth’s network. The increase in rates would be from those rates based on TELRIC to rates based on what BellSouth has referred to as “market based.”

3. The obligation to provide transit for traffic over a local exchange carrier's ("LEC's") network is an interconnection service governed under 47 U.S.C. § 251 and since transit is a section 251 obligation, BellSouth cannot impose rates at non-TELRIC prices.¹

4. BellSouth has an express § 251(c)(2) LEC "duty to provide [a requesting carrier] interconnection with [BellSouth's] network – (A) for the transmission and routing of telephone exchange service and exchange access." Transit traffic is "telephone exchange service" or "exchange access" traffic.

5. Under 47 U.S.C. § 251(c)(2) and subsection (A) there is no requirement that traffic transmitted and/or routed by BellSouth *must also terminate on BellSouth's network*. As described, this is one method by which "indirect interconnection" is accomplished between an originating and terminating carrier. Moreover, exchange service/access traffic that BellSouth transmits/routes *to another network for termination (i.e. transit traffic)* is encompassed as part of BellSouth's § 251(c)(2)(A) interconnection duties to transmit and route traffic and is therefore subject to TELRIC pricing.

6. Sprint is currently in negotiations for interconnection contracts with BellSouth. Allowing BellSouth's proposed tariff filing to go into effect without opportunity for hearing as to the appropriate rate level for this service sets a precedent without an evidentiary record as to the Authority's policy on appropriate rates for transit traffic.

¹ See the January 15, 2003 Decision of the State of Connecticut Department of Public Utility Control, *Petition of Cox Connecticut Telecom, L L C for Investigation of the Southern New England Telephone Company's Transit Service Cost Study and Rates*, Docket No. 02-01-23.

7. In addition, the Authority has pending before it two proceedings in which rates for transit traffic are being considered, Authority Docket Nos. 03-00585² and 03-00523.³ The Authority should not simply let BellSouth's tariff to go into effect when the very question regarding whether rates for transit should be at TELRIC is currently pending resolution. As a result, Sprint has a direct interest in and will likely be impacted by the rates BellSouth charges for transit of traffic.

8. Moreover, the "market based" rate BellSouth has proposed in Tariff No. 20041259 represents a two hundred percent (200%) increase in rates currently charged to Sprint under its existing agreements with BellSouth. Therefore, as demonstrated above, Sprint's legal rights, duties, privileges, immunities or other legal interests will be affected by BellSouth's proposed tariff.

9. Given the requirements set forth for an incumbent LEC like BellSouth to provide transit service at TELRIC under § 251(a), Sprint is likely to succeed on the merits of its claims.

WHEREFORE, based on the foregoing, Sprint respectfully requests that the Authority accept this Complaint and order the suspension of Tariff No. 20041259, while convening a contested case proceeding to determine whether BellSouth's tariff filing is appropriate under 47 U.S.C. § 251.

² *In Re Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless, Petition for Arbitration of BellSouth Mobility LLC, BellSouth Personal Communications, LLC, Chattanooga MSA Limited Partnership, Collectively d/b/a Cingular Wireless, Petition for Arbitration of AT&T Wireless PCS, LLC d/b/a AT&T Wireless, Petition for Arbitration of T-Mobile USA, Inc and Petition for Arbitration of Sprint Spectrum L P d/b/a Sprint PCS*

³ *In Re Generic Docket Addressing Rural Universal Service*

Respectfully submitted this 27th day of October, 2004.



Edward Phillips

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